In the High Court of Uttaranchal, at Nainital.

A.O. No. 915/2001

(FAFO No. 1015/1988)

1- Kundan Singh Truck Driver UTS 1197
C/o Vipin Kumar Agarwal.
2- Vipin Kumar Agarwal S/o Nathuram Agarwal,
Both R/o Govind Nagar Kotdwar,
Garhwal ... Appellants.

Vs.

1- State of U.P. through Acharya Parsar
Prishikashan Kendra Pauri Garhwal.
2- The Oriental Insurance Co. through
General Manager, Jawalapur, Kotdwar
Pauri Garhwal ... Respondents.

Sri R.K. Shah, learned counsel for the appellants.
Smt. Beena Pandey, learned S.C. for the State of U.P.
Sri Deepak Rawat, learned counsel for the Insurance Company.

Hon'ble B.C. Kandpal, J.

This Appeal From Order, U/S 110-D of the Motor Vehicles Act, has been filed by the appellants, who are the driver and owner of Truck No. U.T.S. 1197 against the notice dated 19-4-1990, thereby demanding the entire awarded amount of compensation from the appellants to be deposited by 29-4-1990.

2- Brief facts of the case are that there was an accident between jeep No. U.T.S. 2168 owned by the State and the Truck No. UTS 1197, belonging to the appellant No. 2. The claim petition was filed by the U.P. State against the appellants and the Motor Accident

Claim Tribunal, awarded the compensation amounting to Rs. 31,120/- only together with an interest @ 6% per annum from the date of making the claim till the date of payment. The Tribunal further directed that out of the aforesaid amount, the liability of the Oriental Insurance Company, the respondent No.2, would be to the extent of Rs. 6,000/- only in accordance with the provisions of Section 95 (2)(d) of the Motor Vehicles Act. The judgment and award passed by the Motor Accident Claim Tribunal is dated 6-8-1988.

3- The sole contention of the learned counsel for the appellants is that in view of the specific directions issued by the Motor Accident Claim Tribunal concerned that out of the total amount awarded as compensation, an amount of Rs. 6,000/- was to be paid by the Insurance Company and the appellants had to pay the rest of the amount. It has been contended that the notice issued by the court in the execution proceedings indicates that the appellants had to deposit the entire amount of compensation, i.e. a sum of Rs. 31,120/-, awarded vide judgment and award dated 6-8-1988.

4- Having considered the arguments advanced by the learned counsel for the parties, and after perusing the record, I come to the conclusion that there is a specific direction issued by the Motor Accident Claim Tribunal concerned, that out of the awarded amount, a sum of Rs. 6, 000/- is to be paid by the Insurance Company.

5- The appeal is allowed. The impugned notice dated 19-4-1990 is set aside. No order as to costs.

6- The appellants are directed to pay the amount of compensation, of their share, as awarded by the Motor Accident Claim Tribunal, vide judgment and award dated 6-8-1988. Any amount, if deposited by the appellants before the M.A.C.T. concerned, shall be adjusted towards the final payment to be made by them.

(B.C. Kandpal, J.)

Dated: 05-09-2006
ISB.